Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of 47 C.F.R. §1.1200 et seq. Concerning Ex Parte Presentations in Commission Proceedings	)	GC Docket No. 95-21

REPLY COMMENTS OF SPRINT CORPORATION

Sprint Corporation hereby replies to initial comments of others parties on the notice of proposed rulemaking released February 7, 1995, in the above-captioned proceeding (FCC 95-52). These reply comments focus on three basic issues: the scope of the "permit but disclose" procedures, notification of ex parte communications, and the "sunshine" blackout period.

I. SCOPE OF "PERMIT BUT DISCLOSE" PROCEDURES

Perhaps the biggest area of debate in the initial comments was over the Commission's proposal to employ "permit but disclose" procedures in a far larger set of proceedings than is now the case. Many parties argue that the Commission should not apply such procedures to contested tariff filings that have not yet been set down for investigation. These parties argue that, given the time constraints involved and the fact that a decision whether to set a tariff for investigation is interlocutory and discretionary, subjecting such proceedings to "permit-but-disclose" procedures would be

unduly burdensome and would stifle necessary communications between the staff and the affected parties.[1]

Sprint supports extension of the "permit but disclose" procedures to tariff filings. To begin with, the pre-effectiveness review of a tariff is, for all practical purposes, an opposing party's only realistic chance for Commission scrutiny of a tariff. If the Commission is not persuaded to reject the tariff or set it down for investigation, the only recourse left to the opposing party is to file a formal complaint after the tariff has gone into effect. The formal complaint process has not proven to be an effective one for timely and substantive review of the lawfulness of tariffs. Formal complaints regarding the lawfulness of a tariff filing often lie fallow for years and only rarely are ultimately addressed on their merits in a Commission order.

In order to assure that the pre-effectiveness review is fair to all concerned, all interested parties need to know what other parties are saying and need to be able to respond to the factual assertions presentations and arguments of their adversaries. Allowing the filing carrier to submit additional data or arguments to the staff without making that information available to a petitioner against the tariff is every bit as

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[1] See, e.g., BellSouth at 5; MCI at 2-4; GTE at 2-3; AT&T at 8-11; Ameritech at 3-4; SBC at 2; Rochester at 2-3 and NYNEX at 4-5.

unfair to the petitioner as it would be to allow consumers or competitors to file petitions seeking rejection or suspension of a tariff filing and not making those petitions available to the filing carrier. It would similarly be unfair to the filing carrier to allow a petitioning party to submit data, not disclosed in its petition for suspension or rejection without having to even disclose that the information has been filed with the Commission's staff.

There is no reason why, as some parties claim, that "permit but disclose" procedures would inhibit contacts between the Commission staff and the parties, or would delay resolution of the issues. For example, MCI argues (at 3-4) that the "permit but disclose" process would "mandate a formal procedural process" and that "parties [would have to] wait for ex parte materials to become available in order to respond." Sprint does not read anything in the Commission's proposed rules as injecting such formal processes or delay into the tariff review process. The staff could still informally seek additional data from either the filing carrier or the opposing party or both, and share such data with opposing parties. However, in cases where under current rules and practices, an opposing party is not even aware that additional data have been filed, the Commission's proposed rules would allow that party to learn, at least at some point in time, what the other parties have been saying to the Commission. Sprint fails to

see how this can be deemed objectionable, unduly burdensome or unfair.

On the other hand, several parties object to the Commission's proposal to make certain proceedings which are now restricted -- e.g., formal complaint proceedings -- subject to the more liberal "permit but disclose" rules.[2] The FCBA, in particular, points to many examples of unfairness that can result from allowing ex parte contacts in such proceedings: the summary of an oral presentation can never be complete, nor can the opposing party have the opportunity to observe the decision-maker's reaction to the proposal, and allowing ex parte presentations compromises the integrity of the authorized pleading cycle by allowing parties to delay the presentation of their best arguments until late in the process -- possibly the last minute when no opportunity for response, even on a ex parte basis, exists.

While Sprint did not expressly object to the use of the more liberal "permit but disclose" procedures in formal complaint proceedings in its initial comments, it did express (at 3-4) misgivings, similar to those of the FCBA, over the Commission's widespread reliance on ex parte communications in its decision-making process. Sprint believes that the arguments advanced by the FCBA are worthy of consideration, not only in the context of formal complaint proceedings, but

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[2] See, e.g., AT&T at 2-7; U S West at 2-3; FCBA at 5-7.

also in the context of rulemaking proceedings. Many of the Commission decisions that have the most immediate and direct bottom-line impact on regulatees and the public are promulgated through rulemaking proceedings, rather than formal complaint proceedings, and the same elements of procedural unfairness that could arise from allowing ex parte contacts, even with "permit but disclose" procedures, in formal complaint proceedings can also exist in informal rulemakings as well.

II. NOTICE OF EX PARTE CONTACTS

While Sprint's initial comments supported the Commission's proposal to require more detailed summaries of oral presentations and, at the same time, to allow a three-day period for filing such summaries, Sprint believes that points made by several other parties on these issues are well taken. Sprint agrees with MCI (at 9) that lengthy repetition of arguments already made in formal pleadings should not be required; on the other hand, Sprint believes it would be beneficial, even if no new data or arguments are presented, to at least briefly summarize the issues addressed in the ex parte presentation. Thus, the suggestion of Symbol Technologies (at 3) to allow cross-references to specific pages of prior filings strikes a sound balance between meaningful disclosure and avoiding undue burden on repetition. Sprint also agrees with the parties who argue that a three-day

period for filing a summary of an oral presentation would lead to too much delay and that such summaries should instead have to be filed by the close of business the following day. See, e.g., MCI at 7-8, NYNEX at 7.

Bell Atlantic argues (at 3) that it is impractical to require parties who file an ex parte presentation in electronic form to follow up with a formal written notice of that presentation. On the other hand, the Commission should not create a loophole that would allow parties to evade disclosure requirements by filing electronically. Sprint believes the best solution to the problem raised by Bell Atlantic is the proposal of SBC Communications (at 5-6) to have the Commission print out electronically filed ex parte statements, place them in the public file, and list them in a public notice.

Several parties, including MCI (at 7), SBC (at 5), and Ameritech (at 6), share Sprint's concern about the lack of timely notice of ex parte presentations. Sprint believes that requiring service of such presentations on other parties is the best solution, a solution endorsed, in a somewhat different context, by the FCBA (n.5 at 7), and failing that, the Commission should publish up-to-date notices of ex parte presentations on a daily basis.

III. SUNSHINE PROHIBITIONS

Sprint agrees with the refinements suggested by MCI (at 12) and the FCBA (at 9-10) to the Commission's proposal to exempt, from the sunshine blackout period, discussion of recently-adopted, but unreleased orders during widely attended public events. These refinements would make clear that the event must be open to the press and to all segments of the industry and public, and that the exemption would not apply to any private discussions that take place before or after the speech or panel discussion at the event.

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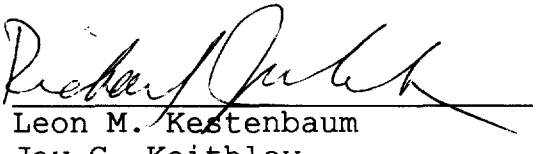
Sprint urges the Commission to clarify and simplify its ex parte rules in accordance with the views expressed above and in Sprint's initial comments.

Respectfully submitted,

SPRINT CORPORATION



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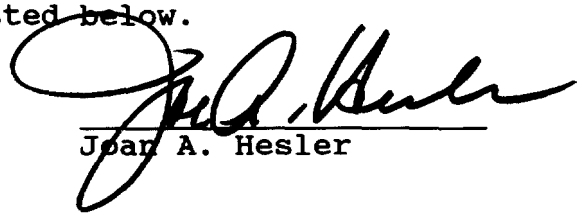
April 28, 1995

CERTIFICATE OF SERVICE

I, Joan A. Hesler, hereby certify that on this 28th day of April, 1995, a true copy of the foregoing **"REPLY COMMENTS OF SPRINT CORPORATION"** was sent via First Class Mail, Postage Prepaid or Hand Delivered to each of the parties listed below.



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